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MAILED

JUN 19 2009

OFFICE OF PETITIONS

In re Patent No. 7,352,353 :
Issued: April 1, 2008 : DECISION ON APPLICATION FOR
Application No. 10/729,044 : and NOTICE OF INTENT TO ISSUE
Filed: December 5, 2003 : CERTIFICATE OF CORRECTION
Dkt. No.: INK-029C1 :

This is a decision on the "APPLICATION FOR PATENT TERM
ADJUSTMENT UNDER 37 CFR 1.705(d)," filed June 2, 2008.

The application for patent term adjustment ("PTA") under 37 CFR
1.705(d) is GRANTED IN PART and DISMISSED IN PART.

The above-identified application matured into U.S. Patent No.
7,352,353 on April 1, 2008. The instant request for
reconsideration was timely filed. The patent issued with a PTA
of 239 days. Patentees argue that the reduction of 55 days under
37 CFR 1.704(c)(10) in connection with the Request for
Clarification of the Notice of Allowability filed October 2,
2007 is in error. Patentees further argue that the reduction of
120 days under 37 CFR 1.704(c)(10) in connection with the
Notification of Missing Fee filed November 26, 2007 is also in
error.

Patentee's arguments have been carefully considered.

The submission of a response to the examiner's reasons for
allowance or a request to correct an error or omission in the
"Notice of Allowance" or "Notice of Allowability is not deemed a
failure to engage in reasonable efforts to conclude prosecution
within the meaning of 37 CFR 1.704(c)(10). See, MPEP 2732. See,
also, *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent
Term Adjustment for Certain Types of Papers Filed After a Notice
of Allowance Has Been Mailed*, 1247 Off. Gaz. Pat. Office 111
(June 26, 2001). Thus, the reduction of 55 days is in error.

However, the submission of the Notification of Missing Fee is
deemed a failure to engage in reasonable efforts to conclude
prosecution within the meaning of 37 CFR 1.704(c)(10).

Patentees argue that patentees should not be penalized in patent term for attempting to remove from the record errors due to the Office. Patentees further argue that as there was no Office response to the Notification of Missing Fee, no delay should be charged.

Patentees' arguments have been carefully considered, but are not found convincing. In accordance with 37 CFR 1.704(c)(10), submission of amendment under § 1.312 or other paper after a notice of allowance has been given or mailed will result in a reduction of patent term. Upon issuance of a Notice of Allowance, applicants should consider waiting until after the patent issues before submitting a paper which will likely result in a reduction in patent term. As there was no response by the Office to the Notification of Missing Fee, the reduction of patent term is governed by 37 CFR 1.704(c)(10). Hence, the reduction of four months, or 120 days.

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 294 days (adjustments totaling 483 days less reductions totaling 189 days).

The Office hereby acknowledges receipt of the required PTA application fee of \$200.00.

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 294 days.

Telephone inquiries specific to this matter may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,352,353 B2
DATED : April 1, 2008
INVENTOR(S) : Albert, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 239 days

Delete the phrase "by 239 days" and insert – by 294 days--

Day : Thursday
Date: 6/18/2009 **PALM INTRANET**

Time: 16:48:47

PTA Calculations for Application: 10/729044					
Application Filing Date:		12/05/2003	PTO Delay (PTO):		483
Issue Date of Patent:		04/01/2008	Three Years:		0
Pre-Issue Petitions:		0	Applicant Delay (APPL):		244
Post-Issue Petitions:		0	Total PTA (days):		294
PTO Delay Adjustment:		55			

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
59	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	55		
55.5	03/12/2008	PTA 36 MONTHS	41		
55	04/01/2008	PATENT ISSUE DATE USED IN PTA CALCULATION	25		47
54	02/22/2008	EXPORT TO FINAL DATA CAPTURE			
53	02/21/2008	DISPATCH TO FDC			
51	10/02/2007	PUBS CASE REMAND TO TC			
50	11/26/2007	MISCELLANEOUS INCOMING LETTER		120	
49	11/09/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
48	10/02/2007	MISCELLANEOUS INCOMING LETTER		55	
47	11/07/2007	ISSUE FEE PAYMENT VERIFIED			
46	11/07/2007	ISSUE FEE PAYMENT RECEIVED			
45	09/20/2007	FINISHED INITIAL DATA CAPTURE			
44	08/20/2007	EXPORT TO INITIAL DATA CAPTURE			
43	08/09/2007	MAIL NOTICE OF ALLOWANCE			
42	08/07/2007	ISSUE REVISION COMPLETED			
41	08/06/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	08/06/2007	NOTICE OF ALLOWABILITY			
39	07/24/2007	DATE FORWARDED TO EXAMINER			
38	07/23/2007	APPEAL BRIEF FILED			
37	07/23/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	02/28/2007	NOTICE OF APPEAL FILED		28	34
35	02/28/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

34	10/31/2006	MAIL FINAL REJECTION (PTOL - 326)			
33	10/30/2006	FINAL REJECTION			
32	08/15/2006	DATE FORWARDED TO EXAMINER			
31	08/09/2006	RESPONSE AFTER NON-FINAL ACTION		41	29
30	08/09/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	03/29/2006	MAIL NON-FINAL REJECTION	417		-1
28	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
27	03/20/2006	NON-FINAL REJECTION			
26	12/05/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	01/26/2006	MISCELLANEOUS INCOMING LETTER			
24	10/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
23	05/24/2005	CORRESPONDENCE ADDRESS CHANGE			
22	03/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	07/14/2004	PRELIMINARY AMENDMENT			
20	07/14/2004	WORKFLOW INCOMING AMENDMENT IFW			
19	04/08/2004	REFERENCE CAPTURE ON IDS			
18	04/08/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	04/08/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	12/05/2003	PRELIMINARY AMENDMENT			
15.7	12/05/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	12/05/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/09/2004	APPLICATION RETURN FROM OIPE			
13	03/09/2004	APPLICATION IS NOW COMPLETE			
12	03/09/2004	APPLICATION RETURN TO OIPE			
11	03/09/2004	APPLICATION RETURN FROM OIPE			
10	03/09/2004	APPLICATION RETURN TO OIPE			
9	03/08/2004	APPLICATION RETURN FROM OIPE			
8	03/08/2004	APPLICATION IS NOW COMPLETE			
7	03/08/2004	APPLICATION RETURN TO OIPE			
6	03/08/2004	APPLICATION DISPATCHED FROM OIPE			
5	03/08/2004	APPLICATION IS NOW COMPLETE			
4	02/11/2004	CLEARED BY OIPE CSR			
3	02/11/2004	CASE CLASSIFIED BY OIPE			
2	01/03/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	12/05/2003	INITIAL EXAM TEAM NN			
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Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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